

OR 64069 - PacifiCorp Electrical Line and Road Access
OR 64659 - Wetzel Road Access
OR 65218 - EMBARQ/UTNW Telephone Line and Road Access

Categorical Exclusion Determination and Decision Record Federal Land Policy and Management Act of 1976 (FLPMA)

CE #OR115-08-29

Proposed Project

The proposed project includes three separate applications for road access over Bureau of Land Management (BLM)-controlled roads along with the installation of electrical and telephone lines adjacent to or within existing roads as identified on the attached table. Graveling the road(s) as needed and the replacement of some culverts may be required. To prevent duplication of work, all three applications and uses will be analyzed under this Categorical Exclusion.

The right-of-way area to be included in each of the three separate grants varies from 25 to 50 feet, depending on the road segments required. Please reference the attached Project Maps and "Road Table" for specific information on the road segments.

This project is located in the northeast ¼ of section 32 and the West ½ of section 33, Township 32 South, Range 1 West, Willamette Meridian, Jackson County, Oregon.

BLM Road Number 32-1-33.1A and 33.1B (portion of)

- Road access authorization for Wetzel and EMBARQ/UTNW.
- Underground telephone line installation authorization for EMBARQ/UTNW.

(PacifiCorp has a previously authorized existing power line along BLM road #32-1-33.1 A and B.)

NOTE: While the telephone line installation is planned within the ditch line of the affected road segments, it may be necessary for EMBARQ/UTNW to cross the road if it is not possible to locate the line on a particular side of the road for a distance.

BLM Road Number 32-1-33.4 A, B, C, D

- Road access authorizations for Wetzel, PacifiCorp, and EMBARQ/UTNW.
- Underground utility line installation authorizations for PacifiCorp and EMBARQ/UTNW.

PacifiCorp proposes to install a 12.5 kilovolt (KV) underground distribution service line. Trenching would be completed using a backhoe. The trench would be approximately 18 inches wide and 36 inches deep. Conduit would be placed in the trench and the wire "pulled" through the conduit.

NOTE: Electrical and telephone lines would be collocated in the same trench. Utility lines would be installed within previously disturbed existing road segments or adjacent ditch lines. After the

utility lines are installed, replacement or repair of affected culverts and gravelling of the road, as directed by the Butte Falls Resource Area Engineer, would be required.

NOTE: BLM road segments 32-1-33.4 B and D are located on private property. BLM's control is limited to the 50-foot wide road easement across this property. Analysis for these segments under this Categorical Exclusion is restricted to the road only.

Road Table

Serial Number	Name	Purpose	Road Segment	Width (feet)	Length (miles)	Acres
OR 64569	Wetzel	Road Access	32-1-33.1A	50	0.39	2.4
			32-1-33.1B (portion of)	50	0.76	4.6
			32-1-33.4 A	25	0.28	0.85
			32-1-33.4 B	25	0.28	0.85
OR 65218	EMBARQ/UTNW	Road Access and Telephone Installation	32-1-33.1A	50	0.39	2.4
			32-1-33.1B (portion of)	50	0.76	4.6
			32-1-33.4 A	25	0.28	0.85
			32-1-33.4 B	25	0.28	0.85
OR 64069	PacifiCorp	Road Access and Electric Line Installation	32-1-33.4 A	25	0.28	0.85
			32-1-33.4 B	25	0.28	0.85

Plan Conformance Review

This proposal is consistent with policy directed by the following:

- *Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan FSEIS, 1994 and ROD, 1994)
- *Final-Medford District Proposed Resource Management Plan/Environmental Impact Statement and Record of Decision* (EIS, 1994 and RMP/ROD, 1995)
- *Record of Decision to Remove the Survey and Manage Mitigation Measure Standards and Guidelines from the Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* (ROD, 2007)
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (EIS, 1985)

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937,

Federal Land Policy and Management Act of 1976, Endangered Species Act of 1973, Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act of 1990 (as amended), and Archaeological Resources Protection Act of 1979.

This proposal is consistent with management direction in the Medford District Resource Management Plan (RMP) that directs the BLM to “Continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon statewide planning goals and rules, and the exclusion and avoidance of areas identified in this RMP” (USDI 1995, p.82).

Project Design Features

- Restrict all ground-disturbing activities to the dry season.
- Use erosion control measures if needed.
- Keep ditch lines clear of debris and disturbed soils.

Categorical Exclusion Determination

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 11.9, E(12), E(16), and E(17). These sections allow for

- *Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way. (E-12)*
- *Acquisition of easements for an existing road or issuance of leases, permits or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes. (E-16)*
- *Grant of a short rights-of-ways for utility service or terminal access roads to an individual residence, outbuilding, or water well. (E-17).*

Before any action described in the list of categorical exclusions may be used, the “extraordinary circumstances,” included in 516 DM 2, Appendix 2, must be reviewed for applicability (see attached Categorical Exclusion Review). After review, the BLM determined no extraordinary circumstances exist that would cause the proposed action to have a significant environmental effect. The action will not require additional analysis.

Contact Person

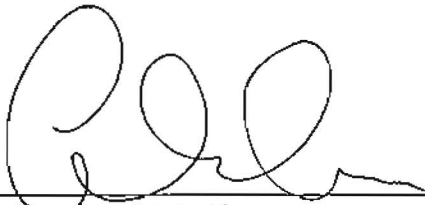
For additional information concerning this project, contact Leslie Voelkel, Project Leader, at 541-840-8727.

Decision

It is my decision to authorize the issuance of right-of-way grants to PacifiCorp (electrical line and road access), EMBARQ/UTNW (telephone line and road access,) and Wetzel (road access) to provide access and utility service to the Wetzel's property near Trail, Oregon as described in the Proposed Action section of this document. The electric and telephone lines will be installed simultaneously followed by the required road and culvert repair and renovation. This project is to begin as soon as possible, weather permitting.

Decision Rationale

The proposed action has been reviewed by Butte Falls Resource Area staff and appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.



Christopher J. McAlear
Field Manager
Butte Falls Resource Area

6/21/08

Date

Administrative Remedies

In accordance with the BLM's Rights of Way regulations (43 CFR § 2801.10), administrative review of right-of-way decisions requiring National Environmental Policy Act (NEPA) assessment will be available under 43 CFR Part 4 to those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a "party to the case" (43 CFR § 4.410). Other than the applicant for the right-of-way, in order to be considered a "party to the case," the person claiming to be adversely affected by the decision must show they have notified the BLM of their alleged injury through their participation in the decision making process [43 CFR § 4.410(b) and (c)]. The latest date that any affected parties received the Notice of Decision will establish the date initiating a 30-day appeal period.

Effective Date of Decision

This is a land decision on a right-of-way application. **All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal** (43 CFR § 2801.10) unless the Secretary rules otherwise. Rights-of-Way decisions that remain in effect pending an appeal are considered as "in full force and effective immediately" upon issuance of a decision. Thus, this decision is now in effect.

Right of Appeal

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a "legally cognizable interest" to which there is a substantial likelihood the action authorized in this decision would cause injury, and who have established themselves as a "party to the case" (43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after this decision is approved (or the date the affected parties received notice of the decision). Only signed, hard copies of a notice of appeal that are delivered to the BLM Medford District Office, 3040 Biddle Road, Medford, Oregon 97504 will be accepted. Faxed or emailed appeals will not be considered.

In addition to the applicant, anyone who has participated in the NEPA process for this project will qualify as party to the case [43 CFR § 4.410(b)]. However, in order to qualify as an appellant, a "party to the case," you also have the burden of showing possession of a "legally cognizable interest" that has a substantial likelihood of injury from the decision [43 CFR § 4.410(d)]. Furthermore, you may raise on appeal only those issues you raised in comments on the environmental assessment or that have arisen after the opportunity for comments closed [43 CFR § 4.410(c)].

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of

reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision.

A petition for stay of a decision pending appeal shall show sufficient justification based on

1. the relative harm to the parties if the stay is granted or denied,
2. the likelihood of the appellant's success on the merits,
3. the likelihood of immediate and irreparable harm if the stay is not granted, and
4. whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor PacifiCorp, EMBARQ/UTNW, and the Wetzels at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations [43 CFR § 4.413(a)]. At the end of your notice of appeal, you must sign a certification that service has been or will be made in accordance with the applicable rules [i.e., 43 CFR §§ 4.410(c) and 4.413] and specify the date and manner of such service.

The Board will review any petition for a stay and may grant or deny the stay. If the Board takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until the Board makes a final ruling on the case.

Contact Information

For additional information, contact Christopher McAlear, Field Manager, Butte Falls Resource Area, 3040 Biddle Road, Medford, Oregon 97504, or telephone 541-618-2217. Additional contact addresses include:

- U.S. Dept of the Interior
Office of Hearings and Appeals, Interior Board of Land Appeals
801 N. Quincy Street
MS 300-QC
Arlington, VA 22203
- U.S. Department of the Interior
Regional Solicitor, Pacific Northwest Region
500 N.E. Multnomah Street, Suite 607
Portland, OR 97232
- PacifiCorp
825 NE Multnomah St, Suite 1700
Portland, OR 97232

- David and Cynthia Wetzel
PO Box 1565
Shady Cove, OR 97589
- EMBARQ
Ms. Rosemary Corbin
600 New Century Parkway
MS-KSN-CAA-0133-1WS468
Kansas City, KS 66031

Categorical Exclusion Review

Proposed Action:

The proposed project includes three separate applications to use segments of BLM Road Numbers 32-1-33.1 and 32-1-33.4 near Trail, Oregon to provide (1) residential road access to the Wetzels, (2) electrical line installation and road access to PacifiCorp, and (3) telephone line installation and road access to EMBARQ/UTNW. To prevent duplication of work, all three uses were analyzed under this one Categorical Exclusion determination. This proposal consists of "plowing in" the electric and telephone lines within the previously disturbed existing road, ditch line, or both. Replacement or repair of culverts and gravelling the road will occur as required by the BLM Area Engineer. The right-of-way area to be included in each of the separate grants varies from 25 to 50 feet wide, depending on the road segments required. Please reference the attached Project Maps and "Road Table" for specific information on the road segments. The project is located in the northeast ¼ of section 32 and the west ½ of section 33, Township 32 South, Range 1 West, Willamette Meridian, Jackson County, Oregon.

Department of the Interior Manual 516 DM 2, Appendix 2 provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. *Have significant impacts on public health or safety.*
Yes ☒ No
Initials: (RW) Remarks:
2. *Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.*
Yes ☒ No
Initials: (RW) Remarks:
3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*
Yes ☒ No
Initials: (RW) Remarks:
4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*
Yes ☒ No
Initials: (RW) Remarks:
5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*
Yes ☒ No
Initials: (RW) Remarks:

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

Yes ☒ No

Initials: (SLG) Remarks:

7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

Yes ☒ No

Initials: (JLH) Remarks:

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Plants Yes ☒ No Initials: (mw) Remarks:

Animals Yes ☒ No Initials: (BR) Remarks:

Fish Yes ☒ No Initials: (JK) Remarks: PDFs will minimize erosion + sediment

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Yes ☒ No

Initials: (JLH) Remarks:

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

Yes ☒ No

Initials: (RW) Remarks:

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

Yes ☒ No

Initials: (JLH) Remarks:

12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Yes ☒ No

Initials: (RW) Remarks:

BLM Categorical Exclusion Reviewers:

Robyn
Wicks

Name	Title	Date	Initials
Jean Williams	NEPA Coordinator	6/20/08	RW
Marcia Wineteer	Botanist	6/14/08	mw
Linda Hale	Wildlife Biologist	Dave Roelofs 6/10/08	DR
Steve Liebhardt	Fisheries Biologist	6/12/08	SL
Shawn Simpson	Hydrologist	6/20/08	S/S
Ken Van Etten	Soil Scientist	6/20/08	KBV
Leanne Mruzik	Fire/Fuels Specialist	6/17/08	LM
John McNeel	Cultural Technician	6/10/08	JCM
Randy Bryan	Engineer	6/12/08	RRB
Trish Lindaman	Outdoor Recreation Planner	6/10/08	TL

T32S



11